

**MUNICIPALITY OF SAN JOAQUIN, PETITIONER-APPELLANT, VS.
NICANOR SIVA, BASILIO SAPITANAN, ET AL,
RESPONDENTS-APPLLEES.**

G.R. No. L-19870. March 18, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Petitioner, Municipality of San Joaquin, seeks the reversal of a decision of the Court of First Instance of Ilo-ilo dismissing the former's petition for prohibition, contesting the legality of Executive Order No. 436 of the President of the Philippines, dated July 10, 1961, creating the municipality of Lawigan out of twenty-one (21) barrios theretofore forming part of said municipality of San Joaquin. Respondents-appellees are the persons appointed by the President as mayor, vice-mayor and councilors of Lawigan, who are sought to be re-strained from performing their functions as such, upon the ground that Section 68 of the Revised Administrative Code, on which said Executive Order is based, constitutes an undue de-delegation of legislative powers, and, hence, unconstitutional. The lower court, however, held otherwise. Hence, this appeal.

The issue herein has been squarely taken up and settled in *Pelaez vs. Auditor General*, G. R. No. L-23825, promulgated on December 24, 1965, which upheld the theory of appellant herein, and rejected the view taken in the appealed decision.

WHEREFORE, said decision is hereby reversed, and another one shall be entered declaring the aforementioned Executive Order No. 436 null and void ab initio, and directing herein respondents-appellees to refrain from acting as officers of the municipality of Lawigan, with costs against them.

IT IS SO ORDERED.

Reyes, Dizon, Regala, Makalintal, Bengzon, Zaldivar, Sanchez, and Castro, JJ., concur.

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